

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ESTES EXPRESS LINES	:	
3901 West Broad Street	:	
Richmond, Virginia 23230	:	CIVIL ACTION
Plaintiff		NO. _____
v.	:	
HARVARD CHEMICAL RESEARCH, INC.	:	COMPLAINT
Seaford Industrial Park	:	
105 Park Avenue	:	
Seaford, Delaware 19973	:	
Defendant		

Parties

1. Plaintiff Estes Express Lines ("Estes") is a motor carrier engaged in the performance of interstate carriage for hire by authority of the U.S. Surface Transportation Board pursuant to 49 U.S.C. § 13501.

2. Estes is a Virginia corporation with its principal place of business located at 3901 West Broad Street, Richmond, Virginia 23230.

3. Defendant Harvard Chemical Research, Inc. ("Harvard Chemical") is, upon information and belief, incorporated under the laws of the State of Georgia and maintains a place of business located at 105 Park Avenue, Seaford, Delaware 19973.

Jurisdiction

4. Jurisdiction in this matter is based upon 28 U.S.C. § 1337(a) as a cause of action arising under the Interstate Commerce Act, 49 U.S.C. §§ 10101, *et seq.*

5. The subject matter of this action stems from freight charges assessed pursuant to applicable agreements, tariffs, and rates governing the carriage of freight by motor carrier.

6. Venue lies in this judicial district by virtue of 28 U.S.C. § 1331(b) in that Harvard Chemical maintains a place of business in this judicial district and a substantial part of the events or omissions giving rise to this claim occurred in this judicial district..

7. The subject matter of this action stems from freight charges assessed pursuant to applicable agreements, tariffs and rates governing the common carriage of freight by motor carrier.

Cause of Action

8. Estes entered into an agreement with Harvard Chemical pursuant to which Harvard Chemical agreed to pay Estes for the interstate transport of freight by motor carrier.

9. Pursuant to the agreement between the parties, Estes served as a motor carrier transporting freight in interstate commerce on behalf of Harvard Chemical.

10. Estes presented Harvard Chemical with certified freight bills for each movement, and demanded payment of freight charges in accordance with the rates and terms agreed to by the parties. These rates include a "discount" for prompt payment that is removed if payment is not received in a timely manner.

11. With the discount removed, the amount of freight charges due and owing to Estes from Harvard Chemical pursuant to governing tariffs presently totals \$28,066.46, plus accrued interest and costs.

12. Pursuant to the terms of the applicable tariff and agreements between the parties, Estes is contractually entitled to recover fees and costs presently in the amount of \$8,419.84 incurred as a result of having to file and pursue its claim in litigation before this Court.

13. Despite demand by Estes for payment, Harvard Chemical has refused to make payment of said freight bills.

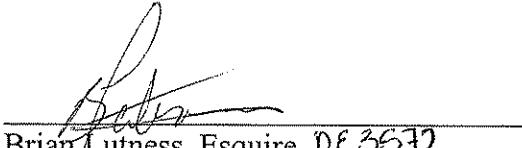
WHEREFORE, Estes Express Lines demands the following relief under its

Complaint:

- a. A judgment against defendant Harvard Chemical Research, Inc. in the total amount of \$36,486.40 pursuant to the applicable tariffs and agreements;
- b. Recovery of its costs, plus interest; and
- c. Any and all other relief to which it is entitled.

Respectfully submitted,

SILVERMAN, McDONALD & FRIEDMAN

By: 

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Attorneys for Plaintiff
Estes Express Lines

Dated: February 28, 2006

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

ESTES EXPRESS LINES

(b) County of Residence of First Listed Plaintiff Richmond
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Brian Lutness, Esq., Silverman, McDonadal & Friedman, 1010 North Bancroft Parkway, Suite 22, Wilmington, DE 19805 (302) 888-2900

DEFENDANTS

HARVARD CHEMICAL RESEARCH, INC.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF	DEF	Citizen or Principal Place of Business In This State	PTF	DEF
<input type="checkbox"/> 1	<input type="checkbox"/>	<input type="checkbox"/> 1	<input type="checkbox"/>	<input type="checkbox"/> 4	<input type="checkbox"/> 4
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 2	<input type="checkbox"/>	<input type="checkbox"/> 2	<input type="checkbox"/>	<input type="checkbox"/> 5	<input type="checkbox"/> 5
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> 6	<input type="checkbox"/> 6
<input type="checkbox"/> 3	<input type="checkbox"/>	<input type="checkbox"/> 3	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/>	<input checked="" type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 460 Deportation	<input type="checkbox"/>
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/>
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/>
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/>
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 510 Selective Service	<input type="checkbox"/>
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/>	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 850 Securities/Commodities/ Exchange	<input type="checkbox"/>
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> Habeas Corpus:	<input type="checkbox"/> 530 General	<input type="checkbox"/> 875 Customer Challenge	<input type="checkbox"/>
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 12 USC 3410	<input type="checkbox"/>
REAL PROPERTY	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/>
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 863 DIWC/DIW (405(g))	<input type="checkbox"/>
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/>
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/>	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/>
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/>	FEDERAL TAX SUITS	<input type="checkbox"/>
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/>
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/>	<input type="checkbox"/> Habeas Corpus:	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 530 General	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/>	<input type="checkbox"/>

V. ORIGIN

(Place an "X" in One Box Only)

 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
49 U.S.C. §§ 10101, et seq.

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$

\$36,486.40

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

B. Lutness DE 3072

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IPP

JUDGE

MAG. JUDGE